

It appears to the court that the plaintiff, Kenneth G. Messer, died on December 3, 2006 and that no executor or administrator has been appointed to administer his estate. It further appears from the materials presented by the defendant that Joan Baker Messer Silvers would have been the heir at law, pursuant to North Carolina law of the deceased plaintiff, if he had died intestate.

NOTICE

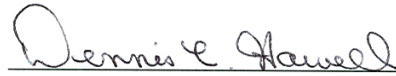
Notice is hereby given to Joan Baker Messer Silvers to have a personal representative appointed and substituted as a party plaintiff in this action or if an executor or administrator has been appointed, to have said executor or administrator appointed and substituted as a party plaintiff in this action within 90 days of December 8, 2006, or the action will be dismissed.

ORDER

IT IS, HEREBY, ORDERED that the United States Marshal shall deliver a copy of this Order and Notice to Joan Baker Messer Silvers by delivering a copy of this Order and Notice to her personally. It is further **ORDERED** that the Clerk of this court is instructed to send a copy of this Order and Notice addressed to the administrator of the estate of Kenneth G. Messer and the executor of the estate of Kenneth G. Messer to Mr. Messer's last known address and further that the Clerk of this court shall send a copy of this Order and Notice to the Clerk of Superior Court of Buncombe County, attention: "Estates Administration". It is further **ORDERED** that the administrator or the executor of the estate of Kenneth G. Messer shall file a

Motion for Substitution or a Stipulation of Dismissal within 90 days of December 8, 2006.

Signed: January 4, 2007



Dennis L. Howell
United States Magistrate Judge

